IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 2014 of 2004
Date of decision : 10.11.2006.

Darbar (Mandir) Mayia Bhaghwanji Phalaurwale Rahimabad, Tehsil Samrala, District Ludhiana.

.....Petitioner.

Versus

Gram Panchayat @ Gram Sabha Rahimabad

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Amit Rawal,Advocate
for the petitioner.

Mr. N.S. Sodhi, Advocate
for the respondent.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 5.3.2004 passed by the learned Additional District Judge, Ludhiana vide which the application made by the petitioner under order 6 Rule 17 C.P.C. for amendment of the plaint has been partly allowed.

The petitioner has sought to amend his plaint as under :-

> "Darbar Mandir Mayia Bhagwanji Phillaurwala Rahimabad, Tehsil Samrala, Distt. Ludhiana may be numbered as plaintiff No.1 and Dila Ram be added as plaintiff No.2.

Para No.1-A of the plaint be added as follows :-

> "Dila Ram is the owner of the land comprised in khasra No. 12//19/1/, 21/1, 22/1, 11/25/2 measuring 15K-17M situated in Village Rahimabad, Tehsil Samrala, Distt. Ludhiana and the property as shown green in the plan attached where Darbar of the Mandir has been established for the post 33-34 years back and it is Dila Ram, who has been holding Darbar. The plaintiff Dila Ram, thus, has locus standi to file the present suit on behalf of Darbar Mandir as well as in his individual capacity.
>
> Wherever a word plaintiff occurs in the plaint, it has to be converted into plaintiffs."

The learned lower appellate Court has allowed the first part of the amendment allowing Dila Ram to be added as plaintiff No.2 . However, a piece of para 1-A has been declined on the ground that the amendment sought was within the knowledge of the plaintiff and, therefore, in view of the amendment in proviso to Order 6 Rule 17 C.P.C. the facts which were in the knowledge of the parties could not be allowed to be incorporated by way of amendment after the commencement of the trial.

The impugned order passed by the learned Courts below cannot be sustained as the amendment by way of addition of para 1-A was necessitated in view of the fact that Dila Ram has been allowed to be impleaded as plaintiff No.2. In view of the fact that the amendment was sought after being impleaded as party the amended proviso to Order 6 Rule 17 C.P.C. was not applicable to the present case.

Accordingly, this revision petition is allowed, the impugned order is set aside and the amendment sought by the petitioner is allowed. However, it is made clear that petitioner would not be entitled to adduce any additional evidence in view of the fact that the plaint has been allowed to be amended.

10.11.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**